COURT'S ORDER WHETHER THE CASE IS OR NOT APPROVED FOR REPORTING
{CHAPTER VIII, RULE 32(2) (B)}
Description of Case

Criminal Appeal No. 336 of 2001
(Old No. 1620 of 1986)

Hayat Ram and others

.....Appellants

Vs.

State

.. Opposite Party

Counsel for appellant: -Sri B.S. Adhikari
Counsel for Opp. Party: Sri Amit Bhatt, learned Addl. G.A. for the State

A.F.R. (Approved for Reporting)
~~Not approved for reporting~~

Date: May 15, 2007

(Dharam Veer, J.)

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL APPEAL No. 336 of 2001
(Old No. 1620 of 1986)

(1) Hayat Ram S/o Tej Ram
(2) Govind Ram S/o Nain Ram
(3) Fakir Ram S/o Jas Ram
(4) Nar Ram S/o Prem Ram
(5) Vikram Ram S/o Prem Ram
(6) Joga Ram S/o Jaya Ram
(7) Jas Ram S/o Sher Ram
All R/o Village Rayeekot Mahar,
P.O. Lohaghat, District Pithoragarh

... Appellants

Versus

State ... Opposite Party

Dated: May 15, 2007

Sri B.S. Adhikari, learned counsel for the appellant
Sri Amit Bhatt, learned Addl. GA for the State

HON. DHARAM VEER, J.

This appeal has been preferred under Section 374(2) of Code of Criminal Procedure, 1973 *(hereinafter to be referred as Cr.P.C.)* against the judgment and order dated 24.04.1986 passed by learned Sessions Judge Pithoragarh in Session Trial No. 15 of 1985, State Vs. Hayat Ram, whereby the learned Sessions Judge, Pithoragarh has convicted the appellants Hayat Ram, Govind Ram, Fakir Ram, Nar Ram, Vikram Ram, Joga Ram and Jas Ram under Section 307 read with Section 149 I.P.C. and awarded a sentence for five years R.I. Appellants Hayat Ram, Jas Ram and Joga Ram were further convicted under Section 148 I.P.C. and were awarded sentence for two years R.I. Appellants Vikram Ram, Nar Ram, Fakir Ram and Govind Ram were further convicted under Section 147 I.P.C. and sentenced to one year R.I. All the sentences were directed to run concurrently.

2. In brief the prosecution story is this on 15.6.1985 at about 9:30 A.M. the complainant Udai

Ram and the injured Shiv Raj Ram were coming towards Lohaghat, alongwith their horses. When they reached at a distance of about 100 paces from Patan bridge towards Lohaghat, the appellants Hayat Ram and Jas Ram armed with axes and appellant Joga Ram armed with hammer, attacked on Shiv Raj Ram with their weapons in their hands respectively and caused injuries to Shiv Raj Ram with the intention to kill him and rest of the appellants have caused injuries on the body of Shiv Raj Ram by Lathis, fists and kicks. It is alleged that the assailants tried to victimize the complainant Udai Ram also but Udai Ram could manage to escape away from there. He went up the hill and shouted for rescue. It is also stated that on the alarm raised by Udai Ram, witnesses Bhag Ram and Girdhar Ram, who were behind them at some distance rushed to the scene of occurrence and challenged the assailants whereupon the Udai Ram ran away from the scene. After leaving injured Shiv Ram in the serious condition on the spot, the complainant Udai Ram then rushed to the Lohaghat where he got written F.I.R. Ex.Ka.1 prepared by Bhuwan Chand and lodged the same at the Police station Lohaghat. On the basis of the written F.I.R. Ex.Ka.1, head Moharrir Kharak Singh PW3, prepared the chick F.I.R. Ex.Ka.2 and registered the case against the appellants under Section 147, 148, and 307 I.P.C. in G.D., copy of which is Ex.Ka.3. S.I. Sri Tara Datt Joshi PW3 was also present at Police Station when the case was registered. He started the investigation and proceeded alongwith the Constables to the place of occurrence. On reaching there he found Shiv Raj Ram lying badly injured and unconscious due to the injuries. Since the condition of the injured was serious, hence he

managed to send him immediately to P.H.C. Lohaghat for medical aid where he was examined by Dr. Rajesh Singh.

3. The Investigation Officer Sri Tara Datt Joshi in presence of the complainant inspected the place of occurrence and prepared the site plan Ex.Ka.12. He also took the blood stained earth and plain earth from there and kept them in two sealed tins and prepared memo Ex.Ka.13 He searched the assailants named in the F.I.R. near around the scene of the occurrence but no clue could be traced out. The Investigation Officer then came to P.H.C. Lohaghat. He tried to record the statement of the injured which he could not do as the injured was unconscious at that time. He however, took the blood stained clothes from his person, and sealed them and prepared memo Ex.Ka. 14.

4. On that very day on 15.06.1985 alongwith police force, the Investigating Officer went out in the trace of the assailants. He succeeded to arrest Jas Ram, Nar Ram, Govind Ram and Fakir Ram near Chokori and thereafter he brought them to Police Station in custody where he interrogated them. In the interrogation, Jas Ram deposed that Joga Ram threw the hammer which he used in commission of the offence in the bush near the occurrence. He also stated that he can lead to the discovery of the same. On this information, the Investigating Officer alongwith appellant Jas Ram and the witness Puran Ram and Girish Chandra reached at the place of the occurrence. Appellant Jas Ram led them to the bush about 20 paces down from the main road. In the bush he picked out blood stained hammer and produced to the Investigation Officer in the presence of the

witnesses Puran Ram and Girish Chandra Punetha. The Station Officer prepared memo Ex.Ka.15. He also prepared site plan Ex.Ka.16 at the place of discovery of the said hammer.

5. On 19.6.1985 Vikram Ram, Joga Ram, and Hayat Ram were arrested by Sri Tara Datt Joshi, Investigating Officer near Patan bridge. He brought them to Police Station in custody. During the interrogation, appellant Joga Ram informed him that the Kulhari used by appellant Jas Ram in commission of the offence had been hidden by him (Joga Ram), in his house which he can produce. Appellant Joga Ram then in custody led the police party alongwith the witness Gopal Singh and Shiv Raj Ram (not to be confused with the injured Shiv Raj Ram) to his house situated in village Raikot an produced the Kulhari before the I.O. The I.O. prepared the memo in the presence of witness Ex.Ka. 17. He also prepared the site plan of the place of discovery of Kulhari which is Ex.Ka.18. after recording the statement of injured and the other witnesses and after completing the investigation, the I.O. submitted charge-sheet Ex.Ka. 19 against the appellants in the court of the Chief Judicial Magistrate, Pithoragarth.

6. The Chief Judicial Magistrate, Pithoragarh has committed the case to the Court of Session for the trial on 17.09.1985. The learned Sessions Judge has framed the charge against the appellants under Section 307 I.P.C. read with Section 149 I.P.C. Appellants Hayat Ram, Joga Ram and Jas Ram were charged under Section 148 I.P.C. Appellants Vikram Ram, Nar Ram Govind Ram and Fakir Ram were charged under Section 147 I.P.C. The charges made

above by the learned Sessions Judge on 11.10.1985 were read over and explained to the appellants. The appellants pleaded not guilty and claimed to be tried.

7. The prosecution in order to prove its case has examined PW1 Udai Ram who is the complainant and the eyewitness; PW2 Girdhari Ram who is also the eyewitness; PW3 Head Constable Kharak Singh, who was posted as Head Moharrir on the date of the occurrence in the Police Station Lohaghat; PW-4 Dr. Rajesh Singh, who has examined the injured Shiv Raj Ram on 15.06.1985 at Lohaghat Hospital, at 11.15 A.M.; PW5 is Shiv Raj Ram, is an injured witness; PW.6 is Dr. K.P. Garg who has conducted the X-ray of Shiv Raj Ram and prepared the X-ray report. PW7 is Tara Datt Joshi, Sub-Inspector, who is the Investigation Officer.

8. After that the statement under Section 313 Cr.P.C. of the appellants were recorded. They have denied the allegation made against them and stated that they have been falsely implicated due to enmity. In defence they have not examined any witness but they have filed the documents Ex.Kha. 1 to Ex.Kha.8.

9. After examining the entire evidence and after considering the facts and circumstances of the case, the learned Session Judge, Pithoragarh vide his judgment and order dated 24.04.1986 convicted the appellants Hayat Ram, Govind Ram, Fakir Ram, Nar Ram, Vikram Ram, Joga Ram and Jas Ram under Section 307 read with Section 149 I.P.C. and awarded a sentence for five years R.I. Appellants Hayat Ram, Jas Ram and Joga Ram were further convicted under Section 148 I.P.C. and were awarded sentence for two years R.I. Appellants Vikram Ram, Nar Ram, Fakir

Ram and Govind Ram were further convicted under Section 147 I.P.C. and sentenced to one year R.I. Aggrieved by the said order Dated 24.04.1986, the appellants have come up in appeal before this Court.

10. I have heard Mr. B.S. Adhikari, counsel for the appellant and Sri Amit Bhatt, Addl. G.A. for the State.

11. The evidence against the appellants under Section 27 of Indian Evidence Act, 1872, recovery of hammer and axe from the possession of the appellants Joga Ram and Jas Ram was not found trustworthy and reliable by the learned Sessions Judge. The learned Sessions Judge has rejected the evidence under Section 27 of Indian Evidence Act, 1872 on the ground that on the instance of Joga Ram, the weapon was recovered which was used by the Jas Ram and on the instance of Jas Ram, the weapon was recovered which was used by the Joga Ram and the witnesses of the recovery Girish Chand Punetha, Puran Ram, Gopal Singh & Shiv Raj Ram (not to be confused with the injured Shiv Raj Ram) were not examined. The learned Sessions Judge has found this recovery doubtful and he has not relied on the recovery under Section 27 of the Indian Evidence Act, 1872.

12. The learned Sessions Judge has also given a finding that the presence of witness Girdhar Ram is also doubtful on the spot and he has not relied on the statement of Girdhar Ram PW2. The learned Sessions Judge has convicted the appellants on the basis of the evidence. The statements of PW1 Udai Ram, complainant and P.W. 5 Shiv Raj Ram, injured witness are supported and corroborated by the medical evidence. To come to the conclusion of the appeal, the discussion for the statement and evidence of

complainants Udai Ram and injured Shiv Ram and the medical evidence is essential.

13. PW1 Udai Ram has stated that on 15.6.1985 at about 9.30 A.M. in the morning he was going to Lohaghat from his village and in front of him Shiv Raj Ram was also going and both of them have the horses with them. When both of them have crossed to Patan bridge and moved towards Lohaghat, then he saw that all the appellants have come out from the bushes and came on the road. Appellants Hayat Ram and Jas Ram have the axes in their hands; Appellants Vikram Ram and Nar Ram were armed with lathis and; Appellant Joga Ram was armed with hammer and rest of the appellants were empty handed. Appellant Hayat Ram and appellant Jas Ram have caused injury to Shiv Raj Ram by Kulhari (axe), and then he run away on the hills and from there he had seen that appellant Nar Ram and Vikram Ram were beating the Shiv Raj Ram by lathi and Joga Ram by hammer and rest of the appellants were beating Shiv Raj Ram by fist and kicks. When the injured cried and called “Bachao-Bachao” then Girdhari Ram and Bhag Ram have also reached the scene of occurrence. After that he reached to Lohaghat and got the F.I.R. scribed by Sri Bhuwan Chandra and lodged the same in the police Station Lohaghat. He has proved the F.I.R. Ex.Ka-1. Then he again came on the place of occurrence and then he saw Shiv Raj Ram who had got the injuries on his body and he was unconscious. This witness was cross-examined at length by the defence counsel but nothing has come out which will create a doubt in his statement. The statement of this witness is trustworthy, reliable, natural and believable.

14. PW3 is Head Constable Kharak Singh who has stated that on 15.6.85, he was posted as Head Moharrir in Police Station, Lohaghat. On that day, the complainant Udai Ram has given the written F.I.R. Ex.Ka.1. On the basis of this report written F.I.R. Ex.Ka.1, he had prepared the chick F.I.R. i.e. Ex.Ka.2. On the basis of this F.I.R., a case was registered against the appellants under Section 147, 148, 307 I.P.C. in the G.D. report No. 16 at 10 A.M. on 15.06.1985. He has proved the copy of the G.D. i.e. Ex.Ka 3. He has also proved the copy of the G.D. Ex.Ka.4 and Ex.Ka5, Ex.Ka.6, Ex.Ka.7, Ex.Ka.8 and Ex.Ka.9.

15. PW4 Dr. Rajesh Singh was also examined. He has stated that on 15.6.1985, he was posted as Medical Officer in P.H.C. Lohaghat. On the same day at 11.15 A.M., he has examined Shiv Raj Ram who was brought to him by constable Heera Singh. He has found the following injuries in his body:-

1. *One lacerated wound over upper part of right ear 5.5 cm. x 3.00cm. in size, cartiledge deep. Bleeding from the wound was present.*
2. *One incised wound skin deep 2 cm. x 0.5 cm. in size about 2 cm. below injury no. 1. bleeding from wound present.*
3. *One incised wound behind upper part of right ear 3 cm. x 3 cm. in size 3cm. deep in muscles, bleeding present.*
4. *One soft swelling at inner end of upper part of right ear 4 cm. x 3 cm. in size colour of the skin over swelling normal.*
5. *One incised wound 6 cm. x 3.2 cm. in size over front of right leg about 12 cm. below tip of right patella. Piece of bone 3 cm. x 1.5 cm x. 1 cm. in size visible from the wound. Bleeding was present.*
6. *One incised wound over front of left leg 2 cm. x 1.5 cm. in size bone deep. Cretipitus present over the site. This wound was about 19 cm. below tip of left patella. Bleeding was present.*
7. *One incised wound 1.5 cm. x 1.2 cm. in size bone deep, 7 cm. above injury no. 6 Crepitus over the injury site was present. Bleeding was present.*

8. *One abrasion over outer side of left forearm 1.5 cm. x 1 cm. in size, 4 cm. below back of left elbow joint. No scab formation was started.*
9. *One abrasion 4 cm. away from injury no.8. 1 cm. x 1 cm. in size. No scab formation was started.*
10. *One abrasion 3 cm. x 1 cm. In size 4 cm. above injury no. 9.*

The doctor also stated that all the injuries were within 24 hours. Dr. Rajesh Singh also:-

A. *Advised the X-ray Skull, anterior posterior and lateral.*
B. *Advised X-ray right leg anterior, posterior and lateral.*
C. *Advised X-ray left leg interior, posterior, and lateral*

16. Dr. Rajesh Singh P.W. 4 has also stated that all the injuries can be caused at 9.30 A.M. on 15.6.85. It is further stated that injury No. 2,3,5,6 & 7 are caused by sharp edged weapon like axe. The injury No. 1 can be caused by hammer and the abrasion injuries No. 8, 9 and 10 can be caused by fist and kicks and Lathis. Injury No. 4 can be caused by lathi, hammer and fist. He has proved the injury report Ex.Ka.10. He has also stated that all the injuries cumulatively were sufficient for the death of the injured. He also referred the injured for further treatment in the District Hospital, Pithoragarh.

17. PW5 is Shiv Raj Ram who is an injured witness. He has stated that he knows all the appellants who belong to his village. He has also stated that before 7 to 7 ½ months at about 9-9.30 A.M. in the morning, when he was going to Lohaghat alongwith Udai Ram, they were going alongwith their horses. When they crossed the Patan bridge about 100 paces, appellants Hayat Ram, Jas Ram, Joga Ram, Vikram Ram, Fakir Ram, Govind Ram and Nar Ram have come on the road coming out from the bushes. Appellants Hayat Ram and Jas Ram were armed with axes; appellants Vikram Ram and Nar Ram have

lathis; appellant Joga Ram had a hammer and appellant Fakir Ram and Govind Ram were empty handed. All the appellants have surrounded on the road and then appellant Hayat Ram told, finish him. After hearing this, Udai Ram got scared and run away on the hills. He has further stated that the appellants have beaten him by axes, hammers, lathis and by fist and kick due to which he had got the number of injuries in his body. Thereafter, he cried and after hearing his voice, the witness Girdhari Ram and Bhag Ram had also reached on the scene of occurrence. After that he became unconscious. Then he came to the senses in the hospital. In the hospital, he was medically examined by the Dr. Rajesh Singh PW4 and after that he was referred to District Hospital, Pithoragarh where he was admitted in the hospital for about 2-2 ½ months. He has further stated that he had got a dispute with the Hayat Ram and for this reason, Hayat Ram had enmity with him and he had beated him. All the appellants belong to one family. This witness was cross examined at length by the defence counsel but nothing has come out which will create a doubt in his statement. The statement of this witness is trustworthy, reliable, natural and believable.

18. PW6 Dr. K.P. Garg was examined by the prosecution who has stated that he was posted on 16.6.85 as Orthopadic Surgeon in District Hospital Pithoragarh. He stated that on that day, the x-ray of the injured Shiv Ram Raj was done under his supervision and the X-ray plates were prepared by the X-ray technicians which he has taken with him and that was Ex.1 and 2. On the basis of the X-ray plates, he has prepared his report. He has filed that report that is Ex.Ka.11. He also stated that injured were

discharged from Hospital on 23.08.1985 and he was referred to the District Hospital from P.H.C. Lohaghat on 15.06.1985. He has stated on the basis of X-ray plate and report that injured Shiv Raj Ram have compound fracture in the bones of both the foots. These fracture injury is corresponding to the injury No.5, 6 and 7 for Ex.Ka.10.

19. PW.7 is the S.I. Tara Datt Joshi who has investigated the case. He has stated that he was posted as Sub-Inspector on 15.6.1985 in Police Station Lohaghat. On that day, the complainant Udai Ram had lodged the F.I.R. in his presence Ex.Ka.1 in the Police Station. On the basis of this F.I.R. the Head Moharior Kharak Singh has prepared the Chick F.I.R. and registered the case against the appellants. He started the investigation on the same day and reached on the place of occurrence. From the spot, he found Shiv Raj Ram was lying there in an injured condition and he was unconscious. Then he has arranged to send him at P.H.C. Lohaghat, through constable Heera Singh. After that he inspected the place of occurrence and prepared the site plan on the pointing out of complainant Udai Ram i.e. Ex.Ka.12. On the spot he has taken the plain earth and blood stained earth and prepared and sealed the same and prepared the memo Ex.Ka.13. He could not take the statement of the injured on the same day because he was unconscious. He has taken the blood stained clothes of the injured in the Hospital Lohaghat and prepared the fard i.e. Ex.Ka.14. he has arrested the appellants and on the pointing out and discovery of Joga Ram, he has discovered the weapon used by Jas Ram and on the pointing out of Jas Ram, he discovered the weapon used by Joga ram and prepared the fard on the spot

ex.Ka-15, Ex.Ka-17 and the Maps Ex.Ka-16 and Ex.Ka.18.

20. After recording the statement of the witnesses and completing the investigation, he has submitted the charge sheet in the court of C.J.M. Pithoragarh i.e. Ex.Ka.19.

21. The learned counsel for the appellants has argued that on the basis of the above circumstances and the facts and the injury report mentioned above, the case Section 307 I.P.C. is not made out against the appellants and the injuries on the body of the injured persons is not possible by the weapons assigned to assailants. Considering the number of injuries and their gravity also, the opinion of the Dr. Rajesh Singh PW4, who opined that the injuries cumulatively were sufficient to cause the death of the injured, I am of the view that these appellants caused the assault on the injured with intention and knowledge to cause the death of the injured with common object. It is pertinent to mention here that all the appellants belong to one family. It is not disputed that there is litigation in respect of agricultural land between the injured Shiv Raj Ram and the appellant Hayat Ram. Thus, they have common grudge against injured Shiv Raj Ram. All the appellants jointly caused assault on the injured and caused injuries on him. These facts stand to prove that all the appellants namely Hayat Ram, Govind Ram, Fakir Ram, Nar Ram, Vikram Ram, Joga Ram and Jas Ram formed unlawful assembley with the common object to cause a murderous assault on Shiv Raj Ram and in furtherance of that unlawful assembly, they caused grievous injuries to him and

thus committed offence punishable under Section 307 read wit Section 149 of I.P.C.

22. Appellant Hayat Ram while was the member of said unlawful assembly was armed with hammer, therefore, he was rightly further held guilty for the offence punishable under Section 148 I.P.C. Appellants Jas Ram and Joga Ram while were members of said unlawful assembly were armed with Kulharis (axes), therefore, they were also rightly further held guilty for the offence punishable under Section 148 I.P.C. Since appellants Vikram Ram and Nar Ram were armed with Lathis and appellants Fakir Ram and Govind Ram were empty handed, it is ample clear that they were the members of unlawful assembly the common object of which was to launch the murderous assault on Shiv Raj Ram, therefore, they were also rightly held guilty for the offence punishable under Section 147 I.P.C. The injuries were on the vital part and grievous and the intention for causing such number of injuries was also to kill the injured person Shiv Raj Ram. Hence, the argument of learned counsel for the appellants is not tenable. In my opinion, the offence under Section 307 is clearly made out against the appellants. The documents filed by the appellants as Ex.Kha 1 to Ex. Kha 8 also show that there was enmity between the injured and the appellants and due to this enmity, they have beaten the injured Shiv Raj Ram so mercilessly with the intention to kill him.

23. From the statement of the Udai Ram and the injured Shiv Raj Ram discussed above, it is proved beyond reasonable doubt that at 100 paces from the Patan bridge towards the Lohaghat P.S. Lohaghat

District, Pithoragarh, appellant Hayat Ram and appellant Jas Ram have caused injuries to Shiv Raj Ram by Kulhari (axe); appellants Nar Ram and Vikram Ram have caused injury to Shiv Raj Ram by lathi and appellant Joga Ram have caused injury by hammer and rest of the appellants have caused the injury by fist and kicks on 15.6.85 at about 9.30 A.M. with the common intention and with a common object and common knowledge that such injuries may cause the death of the injured Shiv Raj Ram. The statement of these two witnesses Shiv Raj Ram and the Udai Ram is well supported by the medical evidence.

24. This injured Shiv Raj Ram who is the main witness of the incident has stated that he was assaulted by the appellants with various weapons and kicks and fists as a result of which he sustained a number of injuries. Injury report Ex.Ka.10 which is proved by Dr. Rajesh Singh PW.4 discloses that the injured sustained as may as 10 injuries on his person. Amongst them 5 were incised wounds on different parts of the body, one was lacerated wound, three abrasions and one swelling at the inner end of the upper part of the right ear. Among the other injuries, injury nos.5, 6 and 7 were apparently grievous and injury no. 3 was kept under observation. P.W. 6 Dr. K.P. Garg has conducted X-ray. He prepared X-ray plates Ex.1 and 2 and prepared report Ex.Ka.11. On X-ray he found a compound fracture of bones of both legs and these fractures corresponds to injury Nos.5, 6 and 7. The testimony by the injured is thus fully supported by the medical evidence. The defence counsel could not point out any discrepancy in the statement of the injured witness. I also do not find any

material fact which may create any doubt in the evidence of injured witness.

25. Thus, from the evidence of the complainant Udai Ram and the injured Shiv Raj Ram supported by the medical evidence of the Dr. Rajesh Singh, Dr.K.P. Garg and the injury report, it is well established that on 15.06.1985 at about 9.30 A.M., the appellants assaulted Shiv Raj Ram with Kulharis, Lathis and hammer, kicks and fists and caused a number of injuries, among them three injuries were grievous.

26. In view of the evidence on record and the facts and circumstances discussed above, I am of the view that the prosecution has succeded to prove that the appellants Hayat Ram, Govind Ram, Fakir Ram, Nar Ram, Vikram Ram, Joga Ram and Jas Ram formed unlawful assembley with the common object to cause a murderous assault on Shiv Raj Ram. It is also established that in furtherance of common object of the said unlawful assembly, they variously assaulted the injured and caused simple and grievous injuries with intention or knowledge and under such circumstances that if by that act they had cuased the death of Shiv Raj Raj, they would have been guilty of murder beyond all probabilities and shadow of doubt.

27. The learned Sessions Judge has rightly convicted the appellants Hayat Ram, Govind Ram, Fakir Ram, Nar Ram, Vikram Ram, Joga Ram and Jas Ram under Section 307 read with Section 149 I.P.C. and rightly awarded a sentence for five years R.I. The learned Sessions Judge has also rightly convicted the appellants Hayat Ram, Jas Ram and Joga Ram under Section 148 I.P.C. and rightly awarded sentence for two years R.I. The learned Sessions Judge has also

rightly convicted appellants Vikram Ram, Nar Ram, Fakir Ram and Govind Ram under Section 147 I.P.C. and rightly awarded sentence for one year R.I. and as such all the sentences were also rightly directed to run concurrently.

28. For the reasons mentioned above, I do not find any irregularity or illegality in the judgment and order dated 24.04.1986 passed by learned Sessions Judge, Pithoragarh. The sentence awarded to each of the appellants is also just and proper and justified as per the nature of the crime and the way of the crime committed by the appellants. Hence, the judgment and order dated 24.04.1986 passed by Sessions Judge, Pithoragarh is hereby confirmed and the conviction and sentence awarded to the appellants mentioned above is also hereby confirmed.

29. In view of the above, the appeal is devoid of merit and is hereby dismissed. No order as to costs.

30. Let the record of the case be immediately sent back to the trial court concerned for compliance or order.

(Dharam Veer, J.)

Rajeev Dang